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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/582,340 11/23/99 RAPOSO

G 255/013-US

022249  
LYON & LYON LLP  
SUITE 4700  
633 WEST FIFTH STREET  
LOS ANGELES CA 90071-2066

HM22/0702

EXAMINER

EWOLDT, G

ART UNIT	PAPER NUMBER
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1644

DATE MAILED:

7  
07/02/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/582,340

Applicant(s)

Raposo et al.

Examiner

G. R. Ewoldt

Art Unit

1644



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 15, 2000
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-19 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-15 and 17-19 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

### DETAILED ACTION

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted:

- I. Claims 1-3 and 7, drawn to a method of regulating an immune response with a lactadherin comprising inhibiting antigen cross-priming.
- II. Claims 1, 3-5, and 7, drawn to a method of regulating an immune response with a lactadherin comprising stimulating antigen cross-priming.
- III. Claims 6, 8-11, 13, and 17, drawn to a composition comprising a lactadherin, or variant thereof, and a molecule.
- IV. Claims 12, drawn to a variant of lactadherin
- V. Claim 14, drawn to a nucleic acid encoding a lactadherin and a polypeptide.
- VI. Claim 15, drawn to a liposome comprising a lactadherin or variant thereof.
- VII. Claims 18, drawn to a recombinant virus.
- VIII. Claims 19, drawn to a recombinant cell expressing lactadherin as a surface molecule.

2. The inventions listed do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

U.S. Patent No. 5,445,031 (1995, IDS) teaches a lactadherin variant (fragment) (see particularly column 9, lines 51-52).

Since Applicant's inventions do not contribute a special technical feature when viewed over the prior art they do not have a single general inventive concept and lack unity of invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected species, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

4. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

5. Any inquiry concerning this communication from the examiner should be directed to Dr. Gerald Ewoldt whose telephone number is (703) 308-9805. The examiner can normally be reached Monday through Thursday from 7:30 am to 5:30 pm. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

G.R. Ewoldt, Ph.D.  
Patent Examiner  
Technology Center 1600  
June 27, 2001

*Patrick J. Nolan*  
Patrick J. Nolan, Ph.D.  
Primary Examiner  
Technology Center 1600